

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

SCOTT A. HOARD,

Plaintiff,

vs.

OREGON TRAIL EQUIPMENT LLC n/k/a
LANDMARK IMPLEMENT, INC., and
GORDON E. WATTS

Defendant.

CASE NO. _____

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

COMES NOW the Plaintiff, Scott A. Hoard, by and through his counsel, McGrath North Mullin & Kratz, PC LLO, and for his complaint states as follows:

Parties

1. That the Plaintiff is a resident and citizen of the State of Kansas.
2. That the Defendant LandMark Implement, Inc. is a corporation organized and existing under the laws of the State of Nebraska, with its principal place of business at 915 Brewster Road, P.O. Box 675, Holdrege, Nebraska 68949. At all times hereinafter mentioned, Oregon Trail Equipment LLC and LandMark Implement, Inc. were engaged in the business of selling farm equipment and implements. Oregon Trail Equipment LLC and Defendant LandMark Implement, Inc. merged in December of 2015.
3. At all times hereinafter mentioned, Defendant Gordon E. Watts is a resident and citizen of Edgar, Nebraska, and an employee of Oregon Trail Equipment LLC, n/k/a LandMark Implement, Inc.

Jurisdiction and Venue

1. Jurisdiction is founded upon diversity of citizenship pursuant to 28 U.S.C. §1332. This is a civil action where the matter in controversy exceeds the sum of \$75,000, exclusive of costs and interest.

2. A venue is proper within this jurisdiction, pursuant to 28 U.S.C. §1332, because Plaintiff is a Kansas resident and Defendants are a Nebraska corporation and a resident and citizen of Nebraska.

3. Venue is proper within this jurisdiction, pursuant to 49 U.S.C. §14706 because the situs of the incident giving rise to this action occurred in Nuckolls County, Nebraska.

Allegations

1. That on the 28th day of June, 2012, Plaintiff was driving his vehicle in the southbound lane of Highway 14 in Nuckolls County, Nebraska when, suddenly and without warning, a flatbed car trailer detached from being connected to a pickup truck belonging to Defendant Oregon Trail Equipment LLC (n/k/a LandMark Implement, Inc.), which was being driven by Defendant Gordon E. Watts, who was in the course and scope of his employment with Defendant Oregon Trail Equipment LLC (n/k/a LandMark Implement, Inc.), traveling in the northbound lane of Highway 14.

2. Said flatbed trailer collided with Plaintiff's pickup truck, causing Plaintiff's truck to roll one and a half times and land in the right ditch, and causing severe and extensive damage to Plaintiff, as will be hereinafter set forth.

3. That the sole and proximate cause of the above-mentioned injury to Plaintiff was the negligence of the Defendants, and each of them, in the following particulars:

- a. Failing to keep a proper lookout;
- b. Failing to keep the trailer under reasonable control;

- c. Failing to use the proper trailer ball for the trailer hitch to attach said flatbed trailer to Defendant's pickup truck.

4. Plaintiff suffered damages in excess of \$75,000 as a result of the above-mentioned accident.

Count 1 – Negligence

Plaintiff re-alleges all paragraphs set forth herein.

At all relevant times, Defendants had a duty to exercise reasonable and skill in operating said motor vehicle and in using the proper equipment to attach Defendant's vehicle to said flatbed trailer.

Notwithstanding this duty, and for each thereof, both Defendant Gordon E. Watts and his employer, Defendant Oregon Trail Equipment LLC, n/k/a LandMark Implement, Inc., were otherwise careless and negligent in the operation of the motor vehicle and in using incorrectly-sized equipment to attach the trailer to the vehicle.

As a direct and proximate result of the negligence of the Defendants, Plaintiff sustained personal injury, which caused him to incur medical bills; lost income; both mental and physical pain, suffering, and disability. The injury is permanent. He will endure pain, suffering, disability, and loss of income in the future. He will incur medical bills in the future.

WHEREFORE, Plaintiff prays that judgment be entered for the Plaintiff and against each of the Defendants for his past medical bills, future medical bills, special damages, general damages, and costs herein expended.

Designation of Trial Location

Plaintiff hereby requests that trial in this action be held in Omaha, Nebraska.

Dated this 31st day of May, 2016.

SCOTT A. HOARD, Plaintiff

By: /s/ John F. Thomas

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